

JUDICIAL CONSIDERATIONS REGARDING THE CRIMINAL ACT OF STREET ROBBERY (IN THE CASE OF DECISION NUMBER 380/PID.B/2025/PN MDN)

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Abstract

Street robbery (begal) is a form of street crime that increasingly disturbs the public because it is carried out through violence or threats of violence in public spaces. In Indonesian positive criminal law, begal is not regulated as a separate offense, but is classified as theft with violence as stipulated in Article 365 of the Indonesian Criminal Code (KUHP). This study aims to analyze the legal construction of the crime of begal and to examine the judge's legal considerations in Decision Number 380/Pid.B/2025/PN Mdn using a normative legal research method based on statutory, case, and conceptual approaches. The results of the study show that the legal construction of the crime of begal is formed by the elements of theft, violence or threats of violence, and aggravating circumstances as regulated in Article 365 paragraph (2) of the KUHP. In Decision Number 380/Pid.B/2025/PN Mdn, the panel of judges analyzed all elements of the offense systematically based on the facts revealed at trial and valid evidence. The judges' considerations in rendering the decision reflect the principles of justice, legal certainty, and expediency through consistent and transparent application of the law, as well as the imposition of a proportional sentence that takes into account the interests of the victim and the rights of the defendant.

Keywords: *Judicial Considerations, Street Robbery (Begal), Theft with Violence*

1. INTRODUCTION

The criminal act of street violence or what is known by the term begal shows developments that are increasingly disturbing to Indonesian society. This crime is committed in public spaces with violence or threats of violence, so that it not only causes material losses, but also fear and trauma for victims and the wider community. In positive Indonesian criminal law, begal is not regulated as a separate offense, but is qualified as theft with violence as regulated in Article 365 of the Criminal Code (KUHP), and may also be associated with Article 170 of the Criminal Code if committed jointly in public.

In the criminal justice system, judges hold an important role in enforcing the law through considerations set forth in court decisions. Judges' considerations in begal cases become very crucial because they involve the complexity of the act, the background of the

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perpetrator, the impact experienced by the victim, and the interests of community protection. However, in law enforcement practice, various obstacles are still encountered such as inconsistency in the application of criminal provisions, disparity of decisions, limitations of evidence, and the potential for human rights violations due to alleged wrongful arrest.

Decision Number 380/Pid.B/2025/PN Mdn is one concrete example of handling a begal case within the jurisdiction of Medan. In that case, the defendant together with other perpetrators committed the theft of a motorcycle using a sharp weapon and threats of violence against the victim on a public road at night. This act was carried out in a planned manner and caused social unrest, thus requiring judicial legal considerations that are not only oriented toward punishment, but also toward substantive justice and crime prevention in the future.

Based on this background, a comprehensive study is needed regarding judges' considerations in handling the criminal act of begal. This research is expected to provide academic and practical contributions in the development of criminal law, particularly in realizing decisions that reflect justice, legal certainty, and utility. Therefore, the author is interested in conducting research entitled "**Judges' Considerations on the Criminal Act of Begal (Study of Decision Number 380/Pid.B/2025/PN Mdn)**".

2. METHODOLOGY

This research was conducted at the Medan District Court located at Jalan Pengadilan No. 8, Petisah Tengah Subdistrict, Medan Petisah District, Medan City, North Sumatra, using a normative (doctrinal) legal research type that focuses on examining legal norms, legal principles, and court decisions, particularly Decision Number 380/Pid.B/2025/PN Mdn. The approaches used include the statutory approach, case approach, and conceptual approach to analyze the judges' legal considerations. The data sources consist of primary data in the form of the court decision and secondary data in the form of legislation, legal literature, and relevant official documents. Data collection techniques were carried out through literature study and interviews, while data analysis was conducted qualitatively using various methods of legal interpretation in order to obtain a comprehensive understanding of the issues studied.

3. Results/Case Study/Experiment/Demonstration/Application Functionality

The legal construction of the criminal act of begal also takes into account the time, place, and manner in which the act was committed. In many cases, begal is carried out on

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public roads, at night, and in a manner that causes fear in society. Such circumstances can serve as grounds for aggravation of punishment as regulated in Article 365 paragraph (2) of the Criminal Code.

If in the criminal act of begal the perpetrator causes serious injury or death to the victim, then the criminal law construction becomes even more severe. In this regard, positive criminal law allows the application of higher criminal sanctions as regulated in Article 365 paragraph (3) and paragraph (4) of the Criminal Code. This provision reflects the principle of proportionality between the act and the criminal sanction.

The legal construction of the criminal act of begal is also related to forms of participation. In practice, begal is often committed jointly by more than one person. Therefore, the provisions regarding participation as regulated in Article 55 and Article 56 of the Criminal Code become relevant in determining the criminal responsibility of each perpetrator based on their respective roles. The legal construction of the criminal act of begal also cannot be separated from the objectives of punishment. The imposition of severe criminal sanctions against begal perpetrators is intended to provide a deterrent effect, protect society, and prevent the occurrence of similar criminal acts in the future. This is in line with the function of criminal law as a means of protecting fundamental legal interests.

The judges' legal considerations in Decision Number 380/Pid.B/2025/PN Mdn were arranged systematically based on trial facts and the provisions of positive criminal law. The Panel of Judges first assessed the conformity between the indictment of the Public Prosecutor and the legal facts revealed at trial. This step reflects the application of the principle of prudence in deciding criminal cases. The judge did not immediately accept the indictment, but tested it through lawful evidence. This approach is in line with the principle of due process of law.

The consideration of the element of "taking property belonging to another person" was based on the conformity of the testimony of witnesses, the defendant, and the evidence. The judge assessed that the victim's motorcycle transferred possession by force to the defendant and his accomplices. In interviews, the judge stated that the consistency of witness testimony became an important factor in the judge's conviction. This fact was strengthened by the existence of lawful evidence. Therefore, this element was declared fulfilled.

The judge's decision in case Number 380/Pid.B/2025/PN Mdn needs to be evaluated based on the principles of justice, legal certainty, and utility. These three principles constitute

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the main pillars in criminal law enforcement. Judges are not only required to apply the law normatively, but also to consider substantive justice values. Therefore, criminal decisions must reflect a balance between the interests of the victim, society, and the defendant. This evaluation is important to assess the quality of the decision comprehensively.

The principle of justice in criminal law relates to the granting of rights and obligations proportionally. In this decision, the judge considered in a balanced manner the defendant's act and the consequences caused. In interviews, the judge stated that justice is not always identical with severe punishment. Justice must consider the context and the concrete conditions of the case. This approach reflects the concept of corrective justice.

4. DISCUSSION

The criminal act of *begal* in positive Indonesian criminal law is not recognized as a separate offense, but is a sociological term that juridically is qualified as theft with violence or threats of violence as regulated in Article 365 of the Criminal Code. The legal construction of *begal* is based on the fulfillment of the elements of theft in Article 362 of the Criminal Code aggravated by elements of violence or threats of violence against the victim. These elements indicate that the act of *begal* not only attacks property, but also endangers life safety and creates fear in society. In addition, circumstances such as being committed on a public road, at night, jointly, or causing serious injury to death constitute aggravating factors as regulated in Article 365 paragraph (2) to paragraph (4) of the Criminal Code.

From the perspective of positive criminal law, the legal construction of the criminal act of *begal* also considers aspects of intent, participation, and criminal responsibility of perpetrators in accordance with Article 55 and Article 56 of the Criminal Code. The punishment of *begal* perpetrators aims to provide a deterrent effect, protect victims and society, and prevent the recurrence of similar crimes. In judicial practice, judges have an important role in properly qualifying acts based on trial facts and applicable legal norms so that decisions reflect justice, legal certainty, and utility. Thus, the legal construction of *begal* shows that positive Indonesian criminal law has provided an adequate normative framework to prosecute street crimes accompanied by violence.

The judges' legal considerations in Decision Number 380/Pid.B/2025/PN Mdn were arranged systematically based on the facts revealed at trial, lawful evidence, and the provisions of positive criminal law, particularly Article 365 paragraph (2) of the Criminal

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Code. The Panel of Judges first examined the conformity of the indictment with the legal facts through analysis of the fulfillment of each element of the offense, starting from the legal subject, the act of taking property belonging to another person, the intention to possess unlawfully, to the existence of violence or threats of violence. The judge also assessed aggravating elements in the form of the use of a sharp weapon, the time and place of the incident on a public road at night, and the involvement of more than one perpetrator. The analysis of elements was carried out carefully to ensure the principle of legal certainty and due process of law, as well as to ensure that the defendant was able to be held criminally responsible for his act without any justifying or excusing reasons.

In imposing the sentence, the judge considered aspects of culpability, the objectives of punishment, as well as aggravating and mitigating circumstances of the defendant. The defendant's act was considered to have disturbed society and endangered the safety of the victim, thus constituting aggravating factors, while the defendant's confession and cooperative attitude were considered as mitigating factors. The imposition of imprisonment for two years and four months was considered proportional because it balanced the interests of the victim, society, and the defendant, and took into account the period of detention that had been served. Thus, the judges' legal considerations in this case reflect the application of law that is consistent, rational, and oriented toward justice, legal certainty, and utility.

5. CONCLUSION

Based on the results of the discussion of the first problem formulation, it can be concluded that the criminal act of begal in positive Indonesian criminal law is not regulated as a separate offense, but is qualified as theft with violence as regulated in Article 365 of the Criminal Code. The legal construction of the criminal act of begal is built from the elements of theft, the elements of violence or threats of violence, and the existence of aggravating circumstances, such as being committed at night, on a public road, and jointly. Based on the discussion of the second problem formulation, it can be concluded that the judges' legal considerations in Decision Number 380/Pid.B/2025/PN Mdn have been arranged systematically and comprehensively. The judge based the decision on the legal facts revealed at trial, witness testimony, the defendant's statement, evidence, and applicable criminal law provisions. All elements of Article 365 paragraph (2) of the Criminal Code were analyzed carefully and declared fulfilled. In addition, the judge also considered the absence of

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justifying or excusing reasons, as well as aggravating and mitigating circumstances of the defendant. Thus, the judges' considerations demonstrate the application of criminal law that is professional and responsible. the judges' considerations in Decision Number 380/Pid.B/2025/PN Mdn have reflected the principles of justice, legal certainty, and utility. The principle of justice is reflected in the imposition of a proportional sentence and consideration of the interests of the victim as well as the defendant's rights. The principle of legal certainty is evident from the consistent and transparent application of the provisions of Article 365 of the Criminal Code and criminal procedural law.

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REFERENCES

- Ali, Achmad. *Uncovering Legal Theory and Judicial Theory*. Jakarta: Kencana Prenada Media Group, 2012.
- Amiruddin, and Asikin, Zainal. *Introduction to Legal Research Methods*. Jakarta: RajaGrafindo Persada, 2004.
- Alkostar, Artidjo. *Restorative Justice*. Jakarta: Varia Peradilan, 2015.
- Alfitra. *Law of Evidence in Criminal, Civil, and Corruption Proceedings in Indonesia*. Jakarta: Raih Asa Sukses, 2014.
- Asnawi, M. Natsir. *Hermeneutics of Judicial Decisions*. Yogyakarta: UII Press, 2014. (If this source is indeed used in this section; if not, disregard.)
- Atmasasmita, Romli. *Contemporary Criminal Law*. Jakarta: Kencana Prenada Media Group, 2018.

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 176 - 184

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

- Atmasasmita, Romli. *Legal Reform, Human Rights, and Law Enforcement*. Bandung: Refika Aditama, 2001.
- Atmasasmita, Romli. *Theory and Selected Chapters of Criminology*. Bandung: Refika Aditama, 2009.
- Bonger, W.A. *Introduction to Criminology*. Jakarta: Ghalia Indonesia, 1982.
- Fakrulloh, Zudan Arif. *Law Enforcement as an Opportunity to Create Justice*. Jakarta: Rajawali Pers, 2014.
- Farid, Andi Zainal Abidin. *Selected Chapters of Criminal Law*. Bandung: Alumni, 2006.
- Hamdan, M. *Certain Offenses in the Criminal Code*. Medan: Pustaka Bangsa Press, 2012.
- Hamzah, Andi. *Indonesian Criminal Procedure Law*. Jakarta: Sinar Grafika, 2015.
- Harahap, M. Yahya. *Judicial Power and Examination of Civil Cases*. Jakarta: Sinar Grafika, 2015.
- Huijbers, Theo. *Philosophy of Law*. Yogyakarta: Kanisius, 1995.
- Hiariej, Eddy O.S. *The Principle of Legality and Legal Discovery in Criminal Law*. Jakarta: Erlangga, 2016.
- Lamintang, P.A.F. *Fundamentals of Indonesian Criminal Law*. Bandung: Citra Aditya Bakti, 2013.
- Lamintang, P.A.F., and Lamintang, Theo. *Special Offenses: Crimes Against Property*. Jakarta: Sinar Grafika, 2009.
- Lotulung, Paulus Effendie. *Judicial Power and Administrative Court*. Bandung: Alumni, 1993.
- Manan, Bagir. *Indonesian Judicial Power*. Yogyakarta: FH UII Press, 2004.
- Marzuki, Peter Mahmud. *Legal Research*. Surabaya: Prenada Media Group, 2005.
- Mertokusumo, Sudikno. *Understanding Law: An Introduction*. Yogyakarta: Liberty, 2005.
- Mertokusumo, Sudikno, and Pitlo, A. *Chapters on Legal Discovery*. Bandung: Citra Aditya Bakti, 2013.
- Moeljatno. *Principles of Criminal Law*. Jakarta: Rineka Cipta, 2008.
- Muhammad, Abdul Kadir. *Indonesian Civil Procedure Law*. Bandung: Citra Aditya Bakti, 2008.
- Muhammad, Rusli. *Contemporary Criminal Procedure Law*. Bandung: Citra Aditya Bakti, 2007.

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 176 - 184

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

- Muladi. *Selected Chapters on the Criminal Justice System*. Semarang: UNDIP Publishing Agency, 2002.
- Muladi. *The Institution of Suspended Sentences*. Bandung: Alumni, 1995.
- Mulyadi, Lilik. *Judges' Decisions in Criminal Procedure Law: Theory, Practice, Drafting Techniques and Problems*. Bandung: Citra Aditya Bakti, 2007.
- Mulyadi, Lilik. *A Glimpse of Judges' Decisions in Indonesian Criminal Procedure Law*. Bandung: Citra Aditya Bakti, 2014.
- Mulyadi, Lilik. *Legal Protection of Crime Victims*. Bandung: Mandar Maju, 2014.
- Prasetyo, Teguh. *Criminal Law*. Jakarta: RajaGrafindo Persada, 2018.
- Purwoleksono, Didik Endro. *Criminal Law: A Series of Thoughts*. Surabaya: Airlangga University Press, 2015.
- Purwoleksono, Didik Endro. *Criminal Law*. Surabaya: Airlangga University Press, 2019.
- Radbruch, Gustav. *Rechtsphilosophie* (Indonesian Translation by Bernard L. Tanya). Bandung: Nusamedia, 2011.
- Rifai, Achmad. *Legal Discovery by Judges in the Perspective of Progressive Law*. Jakarta: Sinar Grafika, 2010.
- Saleh, Roeslan. *Criminal Acts and Criminal Responsibility*. Jakarta: Aksara Baru, 1983.
- Samekto, F.X. Adji. *Legal Science in the Development of Thought Toward Post-Modernism*. Yogyakarta: Genta Publishing, 2012. (If this source is indeed used in this section; if not, disregard.)
- Shidarta. *Morality of the Legal Profession*. Bandung: Refika Aditama, 2006.
- Sianturi, S.R. *Principles of Criminal Law in Indonesia and Their Application*. Jakarta: Alumni Ahaem-Petehaem, 1996.
- Siregar, Bismar. *Sense of Justice*. Jakarta: PT Bina Aksara, 1986.
- Sjahdeini, Sutan Remy. *Judicial Independence and Judicial Responsibility in a State of Law*. Jakarta: Pustaka Utama Grafiti, 2009.
- Soesilo, R. *Fundamentals of Criminal Procedure Law*. Bogor: Politeia, 1982.
- Sofyan, Andi, and Asis, Abd. *Criminal Procedure Law: An Introduction*. Jakarta: Kencana, 2014.
- Sutiyoso, Bambang. *Methods of Legal Discovery*. Yogyakarta: UII Press, 2006.
- Sudarto. *Criminal Law I*. Semarang: Yayasan Sudarto, 1990.
- Sudarto. *Law and Criminal Law*. Bandung: Alumni, 2007.

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 176 - 184

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

Sudaryono, and Surbakti, Natangsa. *Criminal Law: Fundamentals and Developments*. Surakarta: Muhammadiyah University Press, 2017.

Tongat. *Substantive Criminal Law*. Malang: UMM Press, 2016.

Warassih, Esmi. *Legal Institutions: A Sociological Study*. Semarang: Suryandaru Utama, 2005.

Warassih Pudjirahayu, Esmi. *Law in Social Perspective*. Semarang: UNDIP Publishing Agency, 2011.

Wantu, Fence M. *Realizing Legal Certainty, Justice and Utility in Judges' Decisions*. Malang: Media Nusa Creative, 2015.

Widnyana, I Made. *Principles of Criminal Law*. Jakarta: Fikahati Aneska, 2010.

Wiyanto, Roni. *Principles of Indonesian Criminal Law*. Bandung: Mandar Maju, 2012.

Wiyono, R. *Indonesian Criminal Justice System*. Jakarta: Sinar Grafika, 2013.

Yulia, Rena. *Victimology in the Criminal Justice System*. Yogyakarta: Graha Ilmu, 2013.

Yusuf, Asep Warlan. *Indonesian Criminal Justice System*. Bandung: CV Mandar Maju, 2016.

Zulfa, Eva Achjani. *Restorative Justice in Indonesia*. Depok: FH UI Publishing Agency, 2020.

A. Legislation

The Criminal Code.

Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP).

B. Internet

Language Development and Fostering Agency, Ministry of Education, Culture, Research, and Technology of the Republic of Indonesia, "Penanggulangan," KBBI Online, <https://kbbi.kemdikbud.go.id/entri/penanggulangan> (accessed on 20 February 2023).